

LABOUR DEPARTMENT

The 23rd July, 1969

No. 4014 A.S.O. II-Lab-69/18055.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s New India Motors (P) Ltd., Faridabad:—

BEFORE SHRI P.M. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 44 of 1968

between

THE WORKMEN AND THE MANAGEMENT OF M/S NEW INDIA MOTORS (P) LTD.,
FARIDABAD

Present:

Shri Darshan Singh, for the workmen.

Shri R.C. Sharma, for the management.

AWARD

The workmen employed in M/s New India Motors (P) Ltd., Faridabad made certain demands out of which one demand was that the concerned workmen should be given two uniforms season-wise. The demands were not accepted by the management and this gave rise to an industrial dispute. The Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication,—*vide* Government Gazette Notification No. ID/FD/177, dated 13th August, 1968:—

Whether seasonal uniforms should be supplied to the workers? If so with what details?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workmen and the management filed their written statement. On behalf of the workmen it was pleaded that respondent is a well established concern employing about 50 workmen and their business is to manufacture motor bodies and they are making huge profits. It is pleaded that the workmen working in different sections and on different jobs such as welders, turners, sheet makers, black smiths, painters, carpenters and those working in the Fabrication Sections and their helpers get their clothes soiled which wear out due to the rough nature of work and since the workmen are getting very low wages they cannot afford from their meagre pay to buy clothes for working in the factory after every two or three months. It is therefore prayed that their demand for two uniforms for every season i.e. one in summer and one in winter is justified.

On behalf of the management, it is pleaded that previously the respondent concern had fairly good business but during the last couple of years the business has considerably declined as a result of which the respondent concern has suffered losses. On merits also the demand of the workmen for supply of seasonal uniform is said to be not justified because according to the management the workers perform no operation by reason of which their clothes become dirty or wear out early. It is pleaded that the workmen are getting reasonable wages as are prevailing in the locality. It is also denied that other factories during similar business are providing seasonal uniform to their workmen.

My learned predecessor Sh. K. L. Gosain,—*vide* order dated 7th October, 1968, observed that the pleadings of the parties give rise to only one issue which is precisely the same as the item of dispute which has been referred to this Tribunal for adjudication and he therefore directed the parties to produce their evidence in support of their respective contentions.

The workmen in support of their case have examined three witnesses, namely, Sh. Jhandu Lal, sweeper W.W.1, Aziz, Khan, (Blacksmith, W.W.2 and Ishwar Dutt, Fitter, W.W.3, Shri Jhandu Lal, sweeper says that although he has been in the service of the respondent concern for 3 years yet he is getting only Rs. 72 p.m. and his clothes get dirty. He says that in other factories the sweepers get Rs. 100 or more and in addition get uniforms. Shri Aziz Khan says that he is in the service of the respondent since 1962 and his salary is Rs 130 p.m. He also says that his clothes get dirty while working at the furnace and he has one helper whose clothes also get dirty on this account. Shri Ishwar Dutt, Fitter says that he is in the service of the respondent since 1957 and is getting Rs 200 p.m. He says that his job is to make trailers and in order to do the work he has to lie on the ground and on the body of the vehicles and so his clothes get dirty. He further says that the respondent concern is employing Fitters, Blacksmiths, Sweepers, helpers and tailor masters but none of them are provided with uniform, although the workmen employed in concern doing similar work that is M/s Globe Meters and M/s P.S. Jain are supplied with uniforms.

In rebuttal Shri M.K. Jain, Director of the respondent concern alone appeared in evidence. He produced copies of two previous awards marked Ex. M.W. 1/1 and Ex. M.W.1/2 given against the respondent concern with regard to the supply of uniforms and according to the management these awards are in force even now. The witness also filed copies of the balance-sheets for the years 1965 to 1967 marked Ex. M.W. 1/3 to Ex. M.W.1/5 in order to prove that the respondent concern is not in a position to bear any further financial liability. He says that previously the respondent concern was employing about 200 to 250 workmen but there is a recession in Body Building Industry and now the number of workers employed is about eleven or twelve only. He maintains that the workmen have not to perform any operation by reason of which their clothes get dirty or wear out early and the other Body Builders, namely, P.S. Jain Rana, Body Builder, Punja, sons etc. do not provide uniforms to their workmen and for this reason it is not necessary to give them any uniforms.

As regards the ability of the respondent concern to bear any financial burden I am afraid it is not possible to arrive at any satisfactory conclusion on the basis of the evidence produced on the record. Shri Jain M.W.1 who alone appeared in evidence and produced the copies of the balance-sheets marked Ex. M.W. 1/3 to M.W. 1/5 was not in a position to give any clarification with regard to any items in the balance-sheets. In cross examination the witness was asked as to what was the wage bill. The witness could not give any reply and said that the balance-sheets had been prepared by the Accountant. Since the witness was not in a position to throw any light with regard to any of the items of the balance-sheet it was ordered that the Accountant who had prepared the balance-sheet be produced so that necessary clarification with regard to the items as given in the balance-sheet could be obtained. The representative of the management, however, took up a stand that he did not wish to produce the accountant as a witness on behalf of the management. It appears that while taking up this stand the learned representative lost sight of the fact that the burden lay upon him to prove that the respondent concern was not in a position to bear any further financial burden and this onus was not discharged by the mere tender of copies of balance-sheets through a person who had no knowledge of the accounts. The reason as to why the Accountant who prepared the balance-sheets was held back was not explained. Summoning the Accountant as a Court witness would have given a right to the respondent to cross examine his own witness and this would have been a abuse of the process of the Court and obviously it was not desirable to adopt this procedure.

The balance-sheets purport to have been prepared by M/s S.P. Chopra and Company Chartered-Accountants. The original balance-sheets have not been produced. Only copies certified to be true by the witness himself have been produced. The witness did not say in his evidence that he had compared the copies with the original. He even did not say that the copies produced by him bear his attestation. The provision of law under which these copies could be admitted in evidence was not share. Under these circumstances it is not possible to take any notice of the balance-sheets and it is not possible to hold that the financial position of the respondent concern is such that it is not in a position to bear any further financial burden.

The management have also not led any evidence to show what would be the extra financial burden if the demand of the workmen for seasonal uniforms is accepted. One thing, however, is definite that the assertion of Shri Jain, Director of the respondent concern that in their concern none of their workmen have to perform any operation by which their clothes are soiled is definitely wrong. Shri Jain has himself filed copies of two previous award marked Ex. M.W.1/1 and Ex. M.W. 1/2. In the award Ex. M.W.1/1 which was given on 14th April 1959, by Shri Avtar Narain Gujral, it was held that Painters and the workmen who were working in the Smithy section were entitled to a uniform. In the award copy Ex. M.W.1/2 which was given on 12th September, 1960 by Shri Jiwaji Dass, Presiding Officer, Labour Court, it was held that the Chowkidars were also entitled to uniforms. That the management were already supposed to be providing uniforms to their painters and the workmen who were working in the smithy section as also to the Chowkidars but Shri Jain the Director of the respondent concern who has appeared in evidence is blissfully ignorant of this fact. Further Shri Jain admits in his evidence that at present they are only employing 10 to 12 workmen only and therefore if uniforms are provided to certain other categories of workmen the financial liabilities cannot be much. A sweeper has to sweep the ground. This operation raises dirt and naturally the clothes get soiled. Shri Jhandu Lal W.W. 1 who is a sweeper says that his salary is only Rs. 72 per month. In view of the high prices which are prevalent these days one can hardly get two square meals a day with this salary. In my opinion the demand for giving uniform to the sweepers is therefore, a very just demand.

Shri Aziz Khan who is working in the smithy section says that he is not getting any uniform. It appears that the award, dated 14th April, 1959 copy Ex. M.W.1/1 has not been brought to the notice of the witness because under this award it has already been held that the workmen working in the smithy section must be given uniform. This award can be enforced so far as the workmen working in the smithy section are concerned.

As regards Shri Ishwar Dutt Filter, he has stated that in connection with his duties he has to work while lying on the ground and he has also to lie on the vehicles. This operation also soils the clothes and they wear out early. In my opinion the filters are also entitled to uniforms.

Shri Avtar Narain Gujral while giving the award directed that the workmen working in the painting and smithy section should be given over alls (Dangris). In my opinion this is a very just award and the sweepers and filters also need over all (Dangries) seasonwise that is one over all in summer and one over all in winter made of Khaki Drill.

No sheet maker, carpenter or helpers or any workmen working in the fabrication section has come in the witness box and therefore it cannot be said that they also need uniform. I give my award accordingly.

Dated 30th June, 1969.

P.N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 2624, the 4th July, 1969.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

P.N. THUKRAL
Presiding Officer,
Industrial Tribunal, Haryana.
Faridabad.

No. 4013—A.S.O.II-Lab.—69-18060.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s Goodyear India Ltd., Pallegarh.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 79 of 1968

between

SHRI JUGAL KISHORE WORKMAN AND THE MANAGEMENT OF M/S GOODYEAR INDIA LTD., BALLABGARH

Present.—Shri Khushinder Singh for the workman.
Shri K.K. Khullar with Shri K.P. Aggarwal for the management.

AWARD

Shri Jugal Kishore was in the service of M/s Goodyear India Ltd; Ballabgarh and was posted as Section Incharge. His services were terminated on account of alleged disobedience of lawful orders given to him by his superiors on the morning of 3rd March, 1968. The workman is aggrieved by reason of termination of his services and this gave rise to an industrial dispute. The Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. ID/FD/9-A/22390, dated 2nd September, 1968:—

Whether the termination of services of Shri Jugal Kishore was justified and in order? If not to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workman and the management filed their written statement. On behalf of the management a preliminary objection has been raised that the dismissal of the workman was approved by the Industrial Tribunal in proceedings under section 33(2) (b) of the Industrial Disputes Act and the workman is now debarred from contending that the principle of natural justice were violated during the enquiry or there was any victimisation or unfair labour practice. It is submitted that these issues were directly or indirectly involved in the proceedings before the Industrial Tribunal because in case there was any violation of the principles of natural justice or if there had been victimisation or unfair labour practice, the Tribunal would not have granted the approval.

On merits it is pleaded that on 22nd February, 1963, the workman was verbally ordered by his Division Foreman Mr. P.M. Wilson that in future he should punch the time card but the workman got himself relieved from his duty on that very day by reporting sick. It is alleged that the workman reported for duty on 3rd March, 1968 at 8.15 a.m. in the first shift but did not punch his time card as previously instructed. He was accordingly reminded by his Divisional Foreman to punch his time card forthwith but the workman refused to abide by the verbal instructions and therefore at about 10 a.m. written orders were given to him but the workman refused to comply with the same. The personnel Manager himself then asked the workman to punch his time card in pursuance of the written orders given to him but the workman again refused. It is pleaded that on account of this misconduct a charge sheet was issued to the workman for wilful disobedience of orders. The workman gave his explanation but it was found unsatisfactory. So an enquiry was held by Shri K.P. Aggarwal Manager Labour in which the guilt of the workman was satisfactorily established and he was dismissed from service. The pleadings of the parties gave rise to the following issues:—

- (1) Whether the workman is debarred from questioning the validity of his discharge from service on the ground that he did not challenge the order of discharge before the Industrial Tribunal and this order was duly approved by the Industrial Tribunal? ..
- (2) Whether the termination of the services of Shri Jugal Kishore was justified and in order? If not to what relief he is entitled?

The parties have produced evidence in support of their respective contentions. I have heard the learned representative of the parties and have carefully gone through the record. My findings are as under:—

Issue No. 1

The learned representative of the management has not cited any authority in support of his submission that if approval of the action taken by the management against the workman has been obtained from the authority in which the connected dispute is pending then the aggrieved workman is debarred from raising a regular dispute and the Government is not competent to refer the dispute for adjudication. On the other hand it has been held in the case of Laxmi Devi Sugar Mills Vs. Ram Sarup & others reported in 1957-I-LLJ page 17, that "the Tribunal before whom an application is made for permission under Section 33 of the Industrial Disputes Act has not to adjudicate upon any industrial dispute arising between the employers and the workmen but has only to consider whether the ban which is imposed on the employer in the matter of altering the conditions of employment to the prejudice of the workman of his discharge or punishment whether by dismissal or otherwise during the pendency of proceedings therein should be lifted. A *prima facie* case has to be made out by the employer for the lifting of the ban and the only jurisdiction which the Tribunal has, is either to give such permission or to refuse it. It cannot impose any condition on the employer before such permission is granted *recrem* it substitute, an other prayer for the one which the employer has set out in his application. If the permission is granted the ban would be lifted and the employer would be at liberty if he so chooses thereafter to inflict the punishment to the workman. On such action being taken by the employer the workman would be entitled to raise an industrial dispute which would have to be referred to the appropriate Tribunal for adjudication by the Government on proper steps being taken in their behalf. When such industrial dispute comes to be adjudicated upon by the appropriate Tribunal the workman would be entitled to have all the circumstances of the case scrutinised by the Tribunal and would be entitled to get the appropriate relief at the hands of the Tribunal. If on the other hand such permission is refused, the parties would be relegated to the *status quo* and the employer would not be able to deal out the punishment which he is entitled to do to the workman". It has been

further held that if on the material placed before it the Tribunal came to the conclusion that a fair enquiry was held by the management in the circumstances of the case and it had bona fide come to the conclusion that the workman was guilty of misconduct with which he had been charged a *prima-facie* case would be made out by the employer and the Tribunal would under these circumstances be bound to give the requisite permission to the employer to deal out the punishment to the workman".

In view of the observation made in this authority it must be held that the present reference is not barred simply because the action taken by the management was approved by the Industrial Tribunal. I find this issue in favour of the workman.

Issue No. 2.—The case of the management is that the workman Shri Jugal Kishore was repeatedly ordered first verbally and then in writing to punch the time card but he refused. He was, therefore, charge-sheeted and a domestic inquiry was held in which his guilt was satisfactory established. So his dismissal from service is justified.

Shri K.P. Aggarwal, M.W. 1 has proved the domestic enquiry held by him against the workman and the record of the enquiry is marked Exhibit M.W. 1/1. Shri Aggarwal has stated that the workman was present throughout the enquiry and he was represented by a person of his choice, namely, Shri Khushinder Singh and he did not raise any objection of any type that the enquiry was not being done properly.

It does not appear that the procedure adopted by the Enquiry Officer was defective in any manner. Five documents marked 1, 3 to 6 are missing. The witness has explained the loss. He has stated that he was holding the inquiry and had taged together with a clip all the five documents, when he was called by the Director for some urgent work and he left the cabin hardly for a minute and a half. He says that after returning he proceeded with the enquiry and after the conclusion of the enquiry he went through the papers and found the aforesaid documents missing. It does not appear that the inquiry has been rendered defective by reason of the loss of the documents.

The management have also led evidence on merits of the charge framed against the workman and it is urged that it is proved that the workman is a very obtinate person not at all amenable to discipline and he deserved the punishment of dismissal. It is submitted that it is proved that the domestic enquiry held against the workman did not suffer from any of the defects pointed out in the well known authority of the Supreme Court reported in 1958-I-LLJ-260, namely, want of good faith, victimisation or unfair labour practice, basic error or violation of principles of natural justice or the findings are baseless or perverse, and since the guilt of the workman for persistent and wilful refusal to obey the orders has been established in a fair and proper inquiry, the order of dismissal passed by the management cannot be interfered with. Reliance has been placed upon a large number of authorities in support of the submission that the Industrial Tribunals should not lightly interfere with the order of the management passed against the workman on account of his wilful refusal to obey orders lawfully given to him or on account of his impertinent or rude behaviour. The authorities cited are Syndicate Bank Ltd. and their workmen reported in 1966-I-LLJ-440, Madhuban Colliery and their workmen reported in 1966-I-LLJ-738, Bareilly Electric Supply Co., Ltd., *Versus* Serajiydin and others reported in 1960-I-LLJ-556, Brooke Bond (I) Private Ltd., and their workmen reported in 1963-I-LLJ-256, Workmen of Motipur Sugar Factory (P) Ltd. and Motipur Sugar Factory (P) Ltd., reported in 1965-II-LLJ-162, Coimbatore Mill Ltd., Coimbatore and Industrial Tribunal, Madras and Anr. reported in 1959-II-LLJ-80, Tractors (India) Ltd., Modh. Sayyed and Anr. reported in 1959-II-LLJ-224 and Doorghakhana Tea Estate and Cachar Chah Sramik Union reported in 1954-II-LLJ-322.

I have carefully gone through the authorities cited above and in my opinion none of the apply to the present case. In the authority cited as 1966-I-LLJ-440, the facts were that a clerk of a Syndicate Bank in Vijayawada branch was transferred to Bangalpalli on the same scale of pay and allowances. This transfer order was resisted on the ground that it was mala fide and was made with an ulterior purpose of punishing the employee for his trade union activities. The Tribunal upheld the contention of the workman but on appeal the Supreme Court held that the Banks are entitled to decide on a consideration of the necessities of banking business whether the transfer of an employee should be made to particular branch and the management is in the best position to judge how to distribute its employees between the different branches and the Industrial Tribunals should be very careful before they interfere with the orders made by the Banks in the discharge of their managerial functions. It was held on the facts of the case that the findings of the Tribunal that the transfer of the clerk was mala fide was not supported by any evidence. In the authority cited as 1966-I-LLJ-738, the facts were similar. In this case the employee was appointed as a Welfare Officer under training at Madhuban Colliery. He was transferred to Sounda Colliery to work in the same capacity without affecting his service conditions. The employee refused to obey the order of transfer in spite of repeated chances having been given to him and so he was dismissed for wilful disobedience of the orders. The case of the employee was that the transfer order was mala fide and the management wanted to victimise him for his trade union activities. The Industrial Tribunal upheld the plea of the employee. On appeal the Supreme Court held that the order of transfer was justified and his dismissal for wilful disobedience of the orders could not be set aside. In the authority reported as 1960-I-LLJ-556, the facts were that a coolie was working in the main department of an electricity undertaking. He was transferred to the Meter Department. He was subsequently re-transferred under an oral order to the department where he was working originally. As a consequence the payment of monthly allowance to the concerned workman for keeping a cycle of his own to attend to the Company work while in the meter department was discontinued. An industrial dispute was raised and the company failed to adduce any reason for the re-transfer of the concerned workman. The Industrial Tribunal found that the order of re-transfer was passed by a person not competent to pass such an order. It was held that transferring a coolie from one department to another is a matter of internal arrangement and Industrial Tribunals should be very careful before they interfere with the orders made in the discharge of the management function in such cases. It was further held that it is hardly necessary to emphasize that the findings of mala fide should be made by an industrial tribunal only after sufficient reliable evidence is led in support of it. Such a finding should not be made light heartedly or in a casual manner as has been done in the instant case. In the authority cited as 1963-I-LLJ-256, the facts of the case were that a clerk raised a dispute that the refusal of the management to promote him as against two other clerk was not justified. On reference being made, the Tribunal held that the management was not justified in refusing to promote the clerk concerned. On appeal it was held by the Supreme Court that promotions to which industrial employees are entitled is the normal function of the management and it must be left to the discretion of the management to select persons for the promotion and the Tribunal

should not interfere in the exercise of the powers unless it comes to the conclusion that the management was actuated by malicious considerations or that the failure to promote one eligible person amounted to unfair labour practice. In this case it was held that the interference by the Tribunal was not justified.

In 1965-II-LLJ-162, the facts of the case were that the workmen had adopted go slow tactics at the instigation of their union Secretary. The management put up a notice stating that as a result of go slow on the part of the workmen, the factory was facing a serious situation. The notice called upon each and every concerned worker to give his willingness in writing to work faithfully and diligently within three days. The workmen failed to give the required undertaking and they were discharged from service. It was held that the orders of the management were justified.

The remaining three authorities also relate to cases in which action was taken against the workmen concerned for their refusals to obey orders. In 1959-II-LLJ-80, the facts of the case were that on 26th October, 1958, the Electrical Engineer reported in writing to the management that at 9.00 A.M. that day he had asked Karunakaran (the workman) to work on the second shift on the 27th instant in the place of one Ponnappan who had resigned and that the workman angrily and defiantly retorted that he would see the manager and let the manager say to that effect and then only he would attend for the night shift. The Engineer further reported that he told the workman that there was no use of his arguing the matter with him and that if he had any grievance, he was at liberty to report and complain to the manager but Karunakaran was in no mood to heed to his orders and went on saying that he would first see the manager. On these facts the workman was called upon to explain the charge of sheer impertinence on his part in not obeying the orders of his immediate superior. The workman put the defence that he never disobeyed the instructions of his superior and that he only wanted to verify as to whether the manager of the establishment approved of the order or instructions in question. At the domestic enquiry the defence of the concerned workman was not believed and the Enquiry Officer believing the evidence on record, found the concerned workman guilty of disobedience, upon which the management dismissed the workman for the said misconduct and filed an application for approval of action taken under Section 33(2) of the Industrial Disputes Act. The Industrial Tribunal found that the Enquiry Officer was justified in accepting the evidence on record and nothing was suggested that the action of the management was mala fide or amounted to victimisation or unfair labour practice. However, the Industrial Tribunal refused the approval on the ground that the statement of the concerned workman could not be interpreted as impertinent or as amounting to disobedience. In a writ application moved for quashing the order of the Tribunal it was held by the High Court setting aside the award of the Tribunal that the award was void not merely for the reason that it ran counter to the decision of the Supreme Court in 1958-I-LLJ-257 Patna Electric Supply Co. versus Beli Ram and 1959-I-LLJ-247 Martin Burn Ltd. versus R. N. Banerjee but also because it was erroneous on the face of the record. It was held that it must be remembered that the responsibility for the conduct of an enterprise rests squarely on the management and the responsibility for maintaining discipline is also on the management. It was held that one management may be slack and indulgent and other may be strict but the Industrial Tribunal is not a Court of appeal in disciplinary matters and it cannot interfere except in the cases referred to by the Supreme Court in Patna Electric Supply Company versus Bali Ram and another (1958-I-LLJ-257) and Martin Burn Ltd. versus R.N. Banerjee (1958-I-LLJ-247). In 1959-II-LLJ-224, the facts of the case were that the Darwans (watchmen) refused to accept the written orders of the management given to them regarding the manner in which they were to perform their duty and action was taken against them for misconduct. It was held that if the orders of the management were not found to be mala fide or unfair and a proper enquiry had been held, then the orders of the management could not be interfered with. The facts in 1954-II-LLJ-322 were that there was an agreement between the management of a tea garden and its workmen under which it was provided *inter alia* that before enforcing any decision regarding any major alteration in the terms of employment notice of such change must be given to the union and joint discussions between the parties must be held. The management introduced a pass or ticket system to secure punctuality in the attendance of the workmen without following the procedure laid down in the agreement. On behalf of the workmen an industrial dispute was raised that the system adopted by the management without prior discussion with the union of the workmen amounted to a breach of agreement. It was held that punctuality in attendance is always an implied condition of service and so there was no alteration in conditions of service when the management insisted on punctuality. It was held that the introduction of ticket or pass system was only a method adopted for ensuring punctuality and therefore there was no breach of agreement on the part of the management and consequently the refusal by the workmen to attend to work unless that system was abolished must be held unjustified.

Thus we find that the main principles enumerated in the authorities relied upon by the learned representative of the management and discussed above is that primarily it is the function of the management to decide the manner in which the administration should be carried on and the manner in which the work is to be done by the workmen employed by them and for this purpose they are entitled to issue all reasonable orders and the workmen have no business to pick holes in the orders given to them. The propositions of law laid down in the above authorities are not being questioned in this case. But as already observed none of the authorities apply to the facts of the present case because in my opinion it cannot be said that Shri Jugal Kishore workman concerned in the present case was guilty of rude or impertinent behaviour as was the case in 1959-II-LLJ-80 or that he was really guilty of persistent refusal to obey orders as was the case in 1965-II-LLJ-224 because as a matter of fact the poor workman in this case was not even given a chance to comply with the orders given to him. The orders which the workman was required to comply read as under:—

"Mr. Jugal Kishore
Section Incharge

3rd March, 1968

Effective immediately. You are ordered to punch your time card at the start and finish of your assigned duties.

C. C. Labour Department file

(Sd.) Peter M. Willson,
Foreman Division 'A'.

This order was given to the workman at about 9.30 or 10 A.M. and the interpretation which the management have put on this order is that the workman should have gone immediately on receipt of this order and

punched his time card at that very time and since he did not do so it amounted to an act of gross indiscipline. Accordingly the workman was immediately placed under suspension and the following charge-sheet was given to him:—

“On 3rd of March, 1968, during first shift at approximately 9-30 A.M. you were given a verbal order to punch your time card by your Division Foreman and your shift Foreman but you refused.

At approximately 10 A.M. you were given an order in writing but again you refused to comply. Thereafter the Personnel Manager told you to punch your card in the presence of M/S Nonehal Singh, D. R. Tiagi, D.V. Pawa, M.L. Dadlani, J.P. Kisana and Rajinder Singh but you flatly refused.”

It would not be out of place to point out at this stage that the system of punching time card is introduced in big factories in order to keep an automatic check over the time the workman remains in the factory on duty. The time the workman enters the factory and the time he leaves is mechanically punched on his card and the possibility of the wrong timing of attendance being shown in the register is wholly eliminated. So no fault can be found with the orders given to the workman that he should with immediate effect start punching the time card. However this order only required the workman to punch the time card at the commencement of and end of his duty. This is exactly what the order given to workman states. No useful purpose would have been served by the workman punching the time at 9-30 or 10 A.M., that is at the time this order was given to him because he had reported for duty at 8-15 A.M. and had already marked his attendance. During the course of arguments the learned representative of the management frankly conceded that the grievance against the workman is as to why he had disobeyed the orders of his Division Foreman Shri P.M. Willson which were given to him on 22nd February, 1968, that in future he was required to punch the time card. The real case of the management is that the workman had marked his attendance in the register when he reported for duty on 3rd March, 1968, is direct contravention of the orders which had been given to him on 22nd February, 1968 and the management did not wish to tolerate this indiscipline and for this reason as soon as Shri Willson came to know that the workman had not punched the time card in compliance with his orders and had instead marked his attendance in the register although even his name was not written in the register he, i.e. Shri Willson scored off the entry in the attendance register and called the workman to his office and ordered him to go right at that very time and punch his time card as already directed and it appears that the refusal of the workman to comply with this order was made a prestige issue. This in a nutshell is the real case of the management. It is also true that the workman at that time did make a grievance of the fact as to why he was being singled out and humiliated by making him punch the time card like an ordinary workman because he was section incharge and no such orders had been given to his two colleagues Shri D.R. Shukla and Shri D.N. Chadha whose names till then appeared in the attendance register. However, we are not concerned with this aspect of the case because the management never put this case in the charge-sheet and the workman never got an opportunity to meet the same either before the Enquiry Officer or in this Court. According to the charge-sheet the only case which the workman was called upon to explain was as to why he did not comply with the orders given to him on 3rd March, 1969, according to which the workman was only required to punch the time “card at the start and finish of his duties” and not at any time in between. It is true that according to the evidence of Shri Willson his verbal orders were that the workman should go and punch the time card right at that very time but unfortunately these orders were not put in black and white. The written orders given to the workman and refused to in the charges-sheet only required him to punch the time card at the start and finish of his duties and therefore the workman was right when he stated before the Enquiry Officer that he understood that he was only required to punch the time card at the start and finish of his duties and not at that very time and the observations of the Enquiry Officer that this explanation is an after-thought is perverse. A plain reading of the written order given to the workman shows that he was required to punch the time card at the beginning and finish of his duties and not in between. It is not the case of the management that the verbal orders given to the workman were in any way different from the written order given to him. In order to see whether the workman can be held guilty of disobedience of the orders given to him, we have to see whether the workman had an opportunity to comply with the orders lawfully given to him and he wilfully refused to comply with these orders. If the orders given to the workman are interpreted to mean that he was only required to punch the time card at the beginning and end of his duties, it cannot be denied that the workman was not given an opportunity to comply with the orders. As already pointed out the workman had already reported for duty at 8-15 A.M. and rightly or wrongly marked his attendance. The verbal and written orders were given to him at about 9-30 A.M. and the earliest he could comply with the orders was in the evening but the workman suspended at that very time and had thus no opportunity to comply with the orders given to him. In my opinion, therefore, the finding of the Enquiry Officer that the guilt of the workman for disobedience of the orders given to him on the morning of 3rd March, 1968, is established is perverse and the workman is entitled to be reinstated with continuity of service and full back wages.

Under the circumstances I make no order as to costs.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

Dated : 26th June, 1969.

No. 2625, dated 4th July, 1969

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

The 23rd July, 1969

No. 4131-3Lab-69/18187.—In supersession of Haryana Government, notification No. 10257-2Lab-68/28634, dated 19th November, 1968 and in exercise of the powers conferred by sub-section (1) of section 20 of the Minimum Wages Act, 1948 (Central Act 11 of 1948), the Governor of Haryana is pleased to appoint the Commissioner for Workmen's Compensation appointed under section 20 of Workmen's Compensation Act, 1923.—

vide notification No. 1070-ASO-III-Lab-69/4302, dated 20th February, 1969, as indicated below to be the authority to hear and decide for the areas within their respective jurisdiction, all claims arising out of payment of less than minimum rates of wages or in respect of the payment of remuneration for days under clause (B) of clause (c) of sub-section (1) of section 13 of the wages at the overtime rate under section 14 to employees or paid in that area:—

Sr. No.	Designation	Jurisdiction
1	Labour Officer-cum-Conciliation Officer, Yamunanagar	.. Ambala District
2	Labour Officer-cum-Conciliation Officer, Karnal	.. Karnal and Jind District
3	Labour Officer-cum-Conciliation Officer, Sonepat	.. District Rohtak
4	Labour Officer-cum-Conciliation Officer, Bhiwani	.. Hissar and Mohindergarh Districts.
5	Labour Officer-cum-Conciliation Officer, Gurgaon	.. Gurgaon District (except Tehsil Ballabgarh).
6	Labour Officer-cum-Conciliation Officer, Faridabad	.. Tehsil Ballabgarh of Gurgaon

The 31st July, 1969

No. 4581-A.S.O. II-Lab-69/18848.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Industriano (P) Ltd., Gurgaon:—

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 31 of 1969

between

THE WORKMEN AND THE MANAGEMENT OF M/S INDUSTRIANO (P) LTD.,
GURGAON

Present.—

Shri Sardha Nand, for the workmen.

Shri Asa Nand, for the management.

AWARD

An industrial dispute arose between the workmen and the management of M/s Industriano (P) Ltd., Gurgaon, and the same was referred to this Tribunal,—vide Notification No. 1D/GG/32-B-69/16489, dated 13th June, 1969. The subject-matter of dispute referred to this Court was as under.

1. Whether the workmen are entitled to the grant of uniforms. If so, with what details ?
2. Whether a cycle stand should be provided in the factory. If so, with what details ?

On receipt of the reference usual notices were issued to the parties. The parties have however mutually settled the dispute and the representative of the workmen has stated that the workmen do not seek any adjudication from this Court with regard to the subject-matter of dispute referred to this Court for adjudication. I give my award accordingly. No order as to costs.

P. N. THUKRAL,

Presiding Officer.

Industrial Tribunal, Haryana, Faridabad.

Dated 5th July, 1969

No. 2884, dated the 15th July, 1969

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

Dated 5th July, 1969.

P.N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.